



April 8, 2009

ENGROSSED HOUSE BILL No. 1346

DIGEST OF HB 1346 (Updated April 6, 2009 11:25 am - DI 102)

Citations Affected: IC 3-5; IC 3-11.

Synopsis: Various election matters. Provides that a public safety officer may vote an absentee ballot by mail. Provides that a public safety officer who has signed the poll list and is called from the polls before voting to respond to an emergency in the voter's capacity as a public safety officer is entitled to return to the polls and vote upon execution of an affidavit. Provides that a voter must vote in person and may not vote an absentee ballot by mail if the voter registered to vote in the county by mail and has not previously voted in the county. Allows the county election board of a county declared a major disaster area by the President of the United States to determine, by the unanimous vote of the entire board membership, that the county's voting systems are unusable as the result of the disaster and to file with the election division: (1) a statement certifying the board's determination; and (2) an order adopting a plan to administer the county's elections using vote centers. Requires the county election board of a county that cannot use a voting system because the county cannot obtain technical or other operating support for the system to adopt, not later than November 1, 2009, a plan for the administration of elections using vote centers. Provides that a county required to adopt a plan to use vote centers may not rescind the plan before December 31, 2011.

Effective: July 1, 2009.

Pearson, Battles, Turner

(SENATE SPONSORS — WYSS, HOLDMAN, HUME, YOUNG R MICHAEL,
MRVAN, ARNOLD)

January 13, 2009, read first time and referred to Committee on Elections and Apportionment.

February 2, 2009, reported — Do Pass.

February 5, 2009, read second time, ordered engrossed. Engrossed.

February 9, 2009, read third time, passed. Yeas 97, nays 0.

SENATE ACTION

February 19, 2009, read first time and referred to Committee on Elections.

April 7, 2009, amended, reported favorably — Do Pass.

C
o
p
y

EH 1346—LS 7532/DI 75+



April 8, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1346

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-5-2-31.5 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2009]: **Sec. 31.5. "Public safety officer" means an individual who**
4 **is any of the following:**

- 5 (1) **A member of a fire department (as defined in IC 36-8-1-8).**
- 6 (2) **An emergency medical service provider (as defined in**
7 **IC 16-41-10-1).**
- 8 (3) **A member of a police department (as defined in**
9 **IC 36-8-1-9).**
- 10 (4) **A correctional officer (as defined in IC 5-10-10-1.5).**
- 11 (5) **A state police officer.**
- 12 (6) **A county police officer.**
- 13 (7) **A police reserve officer.**
- 14 (8) **A county sheriff.**
- 15 (9) **A deputy sheriff.**
- 16 (10) **An excise police officer.**
- 17 (11) **A conservation enforcement officer.**

EH 1346—LS 7532/DI 75+



C
o
p
y

(12) A town marshal.

(13) A deputy town marshal.

(14) A postsecondary educational institution police officer appointed under IC 21-17-5 or IC 21-39-4.

(15) A probation officer.

(16) A paramedic.

(17) A volunteer firefighter (as defined in IC 36-8-12-2).

(18) An emergency medical technician or a paramedic working in a volunteer capacity.

(19) A member of a state or local emergency management agency.

(20) A member of a consolidated law enforcement department established under IC 36-3-1-5.1.

SECTION 2. IC 3-11-8-25.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 25.7. (a) This section applies only to a voter who is a public safety officer.

(b) Notwithstanding section 25.5 of this chapter, a voter who signs the voter's name and either:

(1) signs the voter's address; or

(2) checks the "Address Unchanged" box;

on the poll list under section 25.1 of this chapter and then leaves the polls without casting a ballot or after casting a provisional ballot, may reenter the polls to cast a ballot at the election as provided in this section.

(c) A voter who leaves the polls to respond to an emergency in the voter's capacity as a public safety officer must notify a precinct election officer that the voter is leaving the polls to respond to an emergency in the voter's capacity as a public safety officer.

(d) A poll clerk or assistant poll clerk shall make a notation on the poll list with the voter's name indicating that the voter has left the polls as permitted by this section and the time the voter left the polls.

(e) If the voter returns to the polls, the voter shall be permitted to vote if the voter executes an affidavit stating all of the following:

(1) The name of the voter.

(2) That the voter is a public safety officer.

(3) The public safety position the voter holds.

(4) That after the voter signed the poll list, but before the voter voted, the voter was called to respond to an emergency in the voter's capacity as a public safety officer.

(5) A brief description of the emergency to which the voter

C
o
p
y



responded.

(6) The time the voter returned to the polls.

(f) The commission shall prescribe the form of the affidavit required by this section.

SECTION 3. IC 3-11-10-24, AS AMENDED BY P.L.103-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 24. (a) Except as provided in subsection (b) or (d), a voter who satisfies any of the following is entitled to vote by mail:

(1) The voter has a specific, reasonable expectation of being absent from the county on election day during the entire twelve (12) hours that the polls are open.

(2) The voter will be absent from the precinct of the voter's residence on election day because of service as:

(A) a precinct election officer under IC 3-6-6;

(B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;

(C) a challenger or pollbook holder under IC 3-6-7; or

(D) a person employed by an election board to administer the election for which the absentee ballot is requested.

(3) The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury during the entire twelve (12) hours that the polls are open.

(4) The voter is a voter with disabilities.

(5) The voter is an elderly voter.

(6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury during the entire twelve (12) hours that the polls are open.

(7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.

(8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

(9) The voter is prevented from voting due to observance of a religious discipline or religious holiday during the entire twelve (12) hours that the polls are open.

(10) The voter is an address confidentiality program participant (as defined in IC 5-26.5-1-6).

(11) The voter is a public safety officer.

(b) A voter with disabilities who:

(1) is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope; and

(2) requests that the absentee ballot be delivered to an address

C
o
p
y



1 within Indiana;
 2 must vote before an absentee voter board under section 25(b) of this
 3 chapter.

4 **(c) Subsection (d) does not apply to the following:**

5 **(1) A voter who is entitled to vote by absentee ballot under the**
 6 **federal Uniformed and Overseas Citizens Absentee Voting**
 7 **Act (42 U.S.C. 1973ff et seq.).**

8 **(2) A voter who has the right to vote other than in person**
 9 **under the federal Voting Accessibility for the Elderly and**
 10 **Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)).**

11 **(3) A voter who is entitled to vote other than in person under**
 12 **any other federal law.**

13 **(d) A voter must vote in person and may not vote by mail if:**

14 **(1) the voter registered to vote in the county by mail; and**

15 **(2) the voter has not previously voted in the county.**

16 ~~(e)~~ **(e)** If a voter receives an absentee ballot by mail, the voter shall
 17 personally mark the ballot in secret and seal the marked ballot inside
 18 the envelope provided by the county election board for that purpose.

19 The voter shall:

20 (1) deposit the sealed envelope in the United States mail for
 21 delivery to the county election board; or

22 (2) authorize a member of the voter's household or the individual
 23 designated as the voter's attorney in fact to:

24 (A) deposit the sealed envelope in the United States mail; or

25 (B) deliver the sealed envelope in person to the county election
 26 board.

27 ~~(f)~~ **(f)** If a member of the voter's household or the voter's attorney in
 28 fact delivers the sealed envelope containing a voter's absentee ballot to
 29 the county election board, the individual delivering the ballot shall
 30 complete an affidavit in a form prescribed by the commission. The
 31 affidavit must contain the following information:

32 (1) The name and residence address of the voter whose absentee
 33 ballot is being delivered.

34 (2) A statement of the full name, residence and mailing address,
 35 and daytime and evening telephone numbers (if any) of the
 36 individual delivering the absentee ballot.

37 (3) A statement indicating whether the individual delivering the
 38 absentee ballot is a member of the voter's household or is the
 39 attorney in fact for the voter. If the individual is the attorney in
 40 fact for the voter, the individual must attach a copy of the power
 41 of attorney for the voter, unless a copy of this document has
 42 already been filed with the county election board.

C
o
p
y



(4) The date and location at which the absentee ballot was delivered by the voter to the individual delivering the ballot to the county election board.

(5) A statement that the individual delivering the absentee ballot has complied with Indiana laws governing absentee ballots.

(6) A statement that the individual delivering the absentee ballot is executing the affidavit under the penalties of perjury.

(7) A statement setting forth the penalties for perjury.

~~(e)~~ (g) The county election board shall record the date and time that the affidavit under subsection ~~(d)~~ (f) was filed with the board.

~~(f)~~ (h) After a voter has mailed or delivered an absentee ballot to the office of the circuit court clerk, the voter may not recast a ballot, except as provided in:

(1) section 1.5 of this chapter; or

(2) section 33 of this chapter.

SECTION 4. IC 3-11-18-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.5. (a) This section applies to a county in which the President of the United States has, after December 31, 2007, declared, under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), that a major disaster has occurred.**

(b) If a county election board, by the unanimous vote of the entire board's membership, determines that the county's voting systems are unusable as the result of the major disaster described in subsection (a), the board shall file with the election division:

(1) a statement certifying the board's determination; and

(2) an order adopting a plan under this chapter to administer the county's elections using vote centers.

(c) The plan adopted under this section takes effect when the documents listed in subsection (b) are filed with the election division.

SECTION 5. IC 3-11-18-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.7. (a) This section applies to a county listed in P.L.108-2008, SECTION 5 (before its repeal).**

(b) Notwithstanding any other provision in this chapter, not later than November 1, 2009, the county election board shall adopt an order adopting a plan under this chapter for the administration of vote centers in the county.

(c) The board shall file a copy of the order described in subsection (b) with the election division. The plan takes effect when

C
o
p
y



- 1 the plan is filed with the election division.
2 (d) A plan adopted under this section may be amended as
3 provided by this chapter, but may not be rescinded under this
4 chapter before December 31, 2011.

**C
o
p
y**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1346, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BATTLES, Chair

Committee Vote: yeas 11, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Elections, to which was referred House Bill No. 1346, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 3, delete ""Member of the military or public" and insert ""Public".

Page 1, line 4, delete "has the member set forth in IC 10-14-2-5." and insert "**means an individual who is any of the following:**

- (1) **A member of a fire department (as defined in IC 36-8-1-8).**
- (2) **An emergency medical service provider (as defined in IC 16-41-10-1).**
- (3) **A member of a police department (as defined in IC 36-8-1-9).**
- (4) **A correctional officer (as defined in IC 5-10-10-1.5).**
- (5) **A state police officer.**
- (6) **A county police officer.**
- (7) **A police reserve officer.**
- (8) **A county sheriff.**
- (9) **A deputy sheriff.**
- (10) **An excise police officer.**
- (11) **A conservation enforcement officer.**
- (12) **A town marshal.**
- (13) **A deputy town marshal.**
- (14) **A postsecondary educational institution police officer appointed under IC 21-17-5 or IC 21-39-4.**
- (15) **A probation officer.**
- (16) **A paramedic.**
- (17) **A volunteer firefighter (as defined in IC 36-8-12-2).**
- (18) **An emergency medical technician or a paramedic**

EH 1346—LS 7532/DI 75+



C
O
P
Y

working in a volunteer capacity.

(19) A member of a state or local emergency management agency.

(20) A member of a consolidated law enforcement department established under IC 36-3-1-5.1."

Page 1, line 8, delete "member of the military or".

Page 2, line 1, delete "member of the military or".

Page 2, line 4, delete "member of the military or".

Page 2, line 12, delete "member of the military or".

Page 2, line 14, delete "military or".

Page 2, line 17, delete "member of the military or".

Page 2, line 26, after "(b)" delete "," and insert "**or (d)**".

Page 3, line 14, delete "member of the military or".

Page 3, between lines 22 and 23, begin a new paragraph and insert:

"(c) Subsection (d) does not apply to the following:

(1) A voter who is entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).

(2) A voter who has the right to vote other than in person under the federal Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)).

(3) A voter who is entitled to vote other than in person under any other federal law.

(d) A voter must vote in person and may not vote by mail if:

(1) the voter registered to vote in the county by mail; and

(2) the voter has not previously voted in the county."

Page 3, line 23, strike "(c)" and insert "**(e)**".

Page 3, line 34, strike "(d)" and insert "**(f)**".

Page 4, line 16, strike "(e)" and insert "**(g)**".

Page 4, line 17, strike "(d)" and insert "**(f)**".

Page 4, line 18, strike "(f)" and insert "**(h)**".

Page 4, after line 22, begin a new paragraph and insert:

"SECTION 4. IC 3-11-18-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) This section applies to a county in which the President of the United States has, after December 31, 2007, declared, under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), that a major disaster has occurred.

(b) If a county election board, by the unanimous vote of the entire board's membership, determines that the county's voting systems are unusable as the result of the major disaster described

**C
o
p
y**



in subsection (a), the board shall file with the election division:

- (1) a statement certifying the board's determination; and
- (2) an order adopting a plan under this chapter to administer the county's elections using vote centers.

(c) The plan adopted under this section takes effect when the documents listed in subsection (b) are filed with the election division.

SECTION 5. IC 3-11-18-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.7. (a) This section applies to a county listed in P.L.108-2008, SECTION 5 (before its repeal).

(b) Notwithstanding any other provision in this chapter, not later than November 1, 2009, the county election board shall adopt an order adopting a plan under this chapter for the administration of vote centers in the county.

(c) The board shall file a copy of the order described in subsection (b) with the election division. The plan takes effect when the plan is filed with the election division.

(d) A plan adopted under this section may be amended as provided by this chapter, but may not be rescinded under this chapter before December 31, 2011."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1346 as printed February 3, 2009.)

LANDSKE, Chairperson

Committee Vote: Yeas 6, Nays 4.

C
O
P
Y

